

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1128

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CREATION OF STREETS; AMENDING SECTION 50-311, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LAND THAT HAS BEEN TRANSFERRED OR RIGHT-OF-WAY ESTABLISHED FOR THE PURPOSE OF CREATING A STREET, TO PROVIDE THAT NO FEE OR CHARGE SHALL BE IMPOSED, TO PROVIDE THAT CERTAIN IDAHO CODE SECTIONS SHALL NOT APPLY AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 50-311, Idaho Code, be, and the same is hereby amended to read as follows:

50-311. CREATION -- ~~AND~~ VACATION OF STREETS -- EMINENT DOMAIN -- REVERSION OF VACATED STREETS. (1) Cities are empowered to: create, open, widen or extend any street, avenue, alley or lane, annul, vacate or discontinue the same whenever deemed expedient for the public good; to take private property for such purposes when deemed necessary, or for the purpose of giving right-of-way or other privileges to railroad companies, or for the purpose of erecting malls or commons; provided, however, that in all cases the city shall make adequate compensation therefor to the person or persons whose property shall be taken or injured thereby. The taking of property shall be as provided in chapter 7, title 7, chapter 7, Idaho Code. The amount of damages resulting from the vacation of any street, avenue, alley or lane shall be determined, under such terms and conditions as may be provided by the city council. Provided further that whenever any street, avenue, alley or lane shall be vacated, the same shall revert to the owner of the adjacent real estate, one-half (1/2) on each side thereof, or as the city council deems in the best interests of the adjoining properties, but the rights-of-way, easements and franchise rights of any lot owner or public utility shall not be impaired thereby. In cities of fifty thousand (50,000) population or more in which a dedicated alley has not been used as an alley for a period of fifty (50) years, such alley shall revert to the owner of the adjacent real estate, one-half (1/2) on each side thereof, by operation of the law, but the existing rights-of-way, easements and franchise rights of any lot owner or public utility shall not be impaired thereby.

(2) When land has been transferred or right-of-way established for the purpose of creating a street and no street has been created thereon in a period of fifty (50) years or more, upon request, such land shall revert by operation of law to the transferor of the land or the grantor of the easement or right-of-way, his or her heirs, if the transferor, grantor, or heir owns adjacent land. No charge or fee shall be imposed, and the provisions of section 40-203, Idaho Code, with the exception of subsection (3) of that section, shall not apply.

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval, and retroactively to January 1, 2011.